



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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September 18, 2014

Kroger Mid-Atlantic
c/o Bob DeRiggi
J.D. Signs, Inc.
3100 University Avenue
Morgantown, WV 26505

**RE: V14-38 / Kroger Fueling Station / 3100 University Avenue
Tax Map 7, Parcel 260**

Dear Mr. DeRiggi,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1369 as it relates to signage at 3100 University Avenue.

The decision is as follows:

Board of Zoning Appeals, September 17, 2014:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved Case No. V14-38 granting the following variance relief:
 - a. To erect the two (2) signs on the accessory fuel canopy structure
 - b. To exceed the maximum height standard by 17.5 feet and to exceed the maximum area standard by 20.5 square feet.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approval is set to expire in twelve (12) months unless you can demonstrate that it has been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that sign and building permits must be obtained prior to the commencement of work for which variance relief was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department

ADDENDUM A – Approved Findings of Fact
V14-38 / Kroger Fueling Center / 3100 University Avenue

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Subject property is located at the convergence of 2 access arteries coming into Morgantown. The site has exposure to approx. 18,000 +/- vehicles daily. Many similar businesses in the regional area, have multiple brandings along with pricing and identification signage both on canopies and freestanding options. Proposed clock-tower size, type, and location will not only provide greater visibility from multiple vantage points, but it will do so with less than typical signage along with being more compliant than that presently on site, additionally while accentuating one of the City's entry arteries. Elevation of Post and Panel Clock-tower is necessary for visibility due in part to the necessary canopy coverage-elevation blockage, kiosk location/orientation-elevation blockage, and additional green-space blockage required around the kiosk. These combined issues would negate the effectiveness of a monument.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

With the proposed Fuel Center being located at a prime thoroughfare arterial convergence, along with the market involved competitiveness, not permitting the client reasonable means to effectively advertise (fuel cost/identity) would hinder their ability to justify the cost means for their investment and local improvement. Should they not be allowed similar exposure opportunities afforded to others in the region, identification/communication concerns are noteworthy since a considerable amount of the fuel center business will be directly related to visible sign conveyed information and navigation. Given existing signage clutter within the immediate area, and traffic volumes and speeds, erecting effective signs that meet that maximum height and maximum area standards at the subject location does not appear practicable or achievable.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Wall Signs – Icon only on Canopy for Identification Purposes only. Located visually above the typical drivers' line of sight, non-obtrusive and additionally being parallel to the road they face. Post and Panel Clock-tower sign – Natural design and position of a post and panel sign affords minimal viewing obstructions between columns. Elevated placement of sign panels are above normal traffic line of sight in addition to being placed on premise, out of State ROW, located in a revised green-space area (outside vehicular and pedestrian areas) and placed near the position of the existing sign for which it is replacing, having no known safety concerns. Design also offers a community service with the incorporation of a Mainstreet Style clock, featured in the design pediment.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

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The improved/planned use of the site, along with the requested signage, should not contribute to additional traffic congestion with the proposed being similar to that presently in existence. With the additional architecture features incorporated, planned land usage improvements, along with more compliant signage considerations, the possibility of decreasing the market values of neighboring properties is most unlikely.